

REMARKS

No claims have been amended.

Claims 1-7 and 8-37 are withdrawn.

No Claims have been cancelled.

New Claims 38-71 have been added.

Claims 38-71 are currently pending in this application.

Claims 38, 42 and 63 are in independent format.

1. Classification and Entry of New Claims

The Examiner has stated that Applicant's reply filed on July 6, 2004 was not fully responsive to the prior Office Action because the newly submitted claims (29-37) and the amended claims (4-7 and 12-28) were directed to an invention that was independent or distinct from the invention originally claimed.

Specifically, the Examiner stated that the newly submitted claims (29-37) and the currently amended claims (4-7 and 12-28) were directed to an apparatus for on-line brokerage operation of goods, classified in class 705, subclass 26. The Examiner further stated that the originally claimed invention was drawn to a computerized product, that is, interfaces for receiving, returning, and displaying information from other terminals, classified in class 709, subclass 203. The Examiner stated that all pending claims were accordingly withdrawn from consideration as being directed to a non-elected invention, and hence, the previous response filed on July 6, 2004 was considered non-responsive.

Applicant hereby presents a set of new claims 38-71, of which Claims 38, 42, and 63 are in independent form, which are directed towards interfaces for receiving,

returning, and displaying information, and accordingly, are believed to be classified in Class 709, subclass 203, i.e., the classification of the elected invention. Accordingly, entry and examination of the new claims 38-71 is respectfully requested.

2. 35 U.S.C. § 101

The Examiner's previous rejection of Claims 4-7 and 12-28 under 35 U.S.C. § 101 as being directed to non-statutory subject matter in the Office Action of April 1, 2004 is respectfully traversed and is believed rendered moot by the withdrawal of Claims 4-7 and 12-28.

In drafting new Claims 38-71, which correspond generally to the original form of withdrawn claims 4-7 and 12-28, and to an amended form of withdrawn claims 29-37, Applicant has followed the Examiner's suggestion in the Action of April 1, 2004 that the claims be redrafted to include a computer readable medium such that the claimed software in combination with the computer readable medium will be capable of producing a useful, concrete, and tangible result. Accordingly, new Claims 38-71 are directed towards functional material to effect a practical application that results in a useful, concrete, and tangible result as required under 35 U.S.C. § 101.

3. 35 U.S.C. § 102(e)

The Examiner's previous rejection of Claims 4-7 under 35 U.S.C. § 102(e) as being anticipated by U.S. Published Application No. 2001/0032165 A1 to *Friend et al.* in the Office Action of April 1st, 2004 is respectfully traversed and is believed rendered moot by the withdrawal of Claims 4-7.

United States Published Application No. 2001/0023165 A1 to *Friend et al.* sets for a method and apparatus for internet connectivity for buyers, sellers, and

transporters in an agricultural marketplace. The *Friend et al.* reference discloses a system whereby sellers are able to post transaction offer notices in a database, which are available to all other participating users. Buyers are then able to search the database for transaction offer notices which satisfy their individual search criteria, and to negotiate directly with the individual sellers for transaction terms and prices. In essence, the *Friend et al.* reference discloses a “business-to-business” interactive application. (¶0032).

The system and method of the *Friend et al.* reference is configured and implemented such that buyers and sellers exchange information directly, and individually negotiate transactions. The *Friend et al.* reference does not disclose the display of buyer and seller information in a broker interface to a broker, whereby the broker efficiently matches a sellers products to a buyers need in an efficient manner enabling the broker to earn a commission or fee.

The MPEP §2131 provides:

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference.” *Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

The *Friend et al.* reference fails to disclose a computer-readable medium encoded with program instructions executable by a computer to provide a set of application program interfaces executable on a computer in conjunction with an application program *for facilitating brokered commercial trading transactions* such as

set forth in new Claims 38-41. The *Friend et al.* reference further fails to disclose a broker interface that displays a list of buyer identifications having associated desired product identifications corresponding to an inquiry product identification, a list of seller identifications having associated available product identifications corresponding with the inquiry product identification, and a set of associated product prices corresponding to the inquiry product identification whereby the broker interface facilitates a commercial trading transaction between a buyer desiring a product, and one or more sellers offering the desired product at associated prices. Accordingly, new Claims 38-41 are seen as allowable under 35 U.S.C. § 102(e) over the *Friend et al.* reference.

The *Friend et al.* reference fails to disclose a computer-readable medium encoded with program instructions executable by a computer to provide a set of application program interfaces executable on a networked computer system in conjunction with an application program *for facilitating brokered commercial dairy product trading transactions*, such as set forth in new Claims 42-71. The *Friend et al.* reference further fails to disclose a set of interfaces configured to enable through a broker, at least one commercial dairy product trading transaction between at least one buyer and at least one seller utilizing stored data and stored dairy product load settlement data, or set of interfaces configured to utilize displayed data to facilitate a brokered dairy product trading transaction for at least one dairy product between at least one buyer and at least one seller. Accordingly, new Claims 42-71 are seen as allowable under 35 U.S.C. § 102(e) over the *Friend et al.* reference.

4. 35 U.S.C. § 103(a)

The Examiner's previous rejection of Claims 12-28 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Published Application No. 2001/0032165 A1 to *Friend et al.* is respectfully traversed and believed rendered moot by the withdrawal of claims 12-28.

As discussed above, the *Friend et al.* reference fails to disclose a computer-readable medium having stored thereon program instructions executable by a computer to provide interfaces for facilitating *brokered* commercial trading and commercial dairy product transactions. The *Friend et al.* reference discloses a system and method whereby buyers and sellers of products can interact directly via a set of interfaces to negotiate a transaction. The *Friend et al.* reference does not render obvious a system whereby buyers and sellers do not interact *at all* to negotiate a transaction, but rather, whereby a third party broker receives information through interfaces from the buyer and sellers, and the third party broker negotiates and concludes purchases and sales of a dairy product through interfaces without either the buyer or seller ever interacting with each other. Accordingly, new Claims 38-71 are believed to be allowable under 35 U.S.C. § 103(a) over the *Friend et al.* reference.

5. Conclusion

Based on the foregoing, the entry and examination of new Claims 38-71 is respectfully requested.

If for any reason the Examiner is unable to allow the application on the next Office Action and feels that an interview would be helpful to resolve any remaining

issues, the Examiner is respectfully requested to contact the undersigned attorney for the purpose of arranging such an interview.

Respectfully submitted,

A handwritten signature in black ink that reads "Mark E. Books". The signature is written in a cursive style with a horizontal line underneath it.

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